

ARIZONA *TAXNEWS*

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E-Mail Your Questions

If you have a question that you cannot find the answer for, our Technical Assistance personnel may prove useful to you. We will gladly respond to any e-mail technical tax inquiry with the exception of specific account inquiries. All inquiries will be responded to within two working days.

E-mail your question to:
TaxpayerAssistance@revenue.state.az.us

In the interest of maintaining confidentiality, DOR can not respond to inquiries that include a Social Security number, FEIN, TPT or W/H number, or other specific taxpayer identifiers.

Phoenix Change in City Tax Code

The City of Phoenix passed Ordinance No. G-4254. In a special election held March 14, 2000, the voters of the City of Phoenix approved an increase in the City of Phoenix Transaction Privilege Tax of four-tenths of one percent for a period of twenty years. This tax rate increase has been enacted by the City Council and will be effective on June 1, 2000.

The City of Phoenix tax rate will be 1.8% for the following classifications:

- Amusements
- Construction Contracting

- Job Printing
- Manufactured buildings
- Timbering and other extraction
- Publishing
- Hotels
- Rental / leasing & licensing for use of real property
- Rental / leasing & licensing for use of tangible personal property
- Restaurant/Bars
- Retail sales
- Transporting for hire
- Use tax

Mesa Change in City Tax Code Effective April 23, 2000

On March 14, 2000 the voters of the city of Mesa approved Proposition 200 which exempts certain food sales from the City of Mesa 1.5% Transaction Privilege Tax. The effective date for this change is Sunday, April 23, 2000. The ballot language did not use the standard language in the Model

City Tax Code. The language adopted by the voters is identical to ACC R15-5-1860 - the state regulation on sales of food. The exemption is found on the "green pages" for the City of Mesa in the Master Version of the Model City Tax Code.

Somerton Change in City Tax Code Effective: July 1, 2000

On April 18, 2000, the Mayor and City Council of the City of Somerton passed Ordinance No. 254. Ordinance No. 254

establishes a 2.5% Use Tax on retail purchases where no retail tax was paid. The tax shall be reported using Code SO2.

*****REMINDER*****

FOR NON-EFT TPT FILERS

**To avoid a delinquency, postmark your
June 2000 TPT return no later than
the 25th of the month or deliver to
DOR no later than
July 28, 2000.**

June Summary of General Fund Revenues

	<u>March 2000</u>	<u>Fiscal Year Total</u>
Individual Income Tax		
Net Collections	\$34,766,507	\$1,375,494,250
Percent Change *	N/A	10.8%
Corporate Income Tax		
Net Collections	\$28,411,494	\$293,248,850
Percent Change *	(23.9%)	0.2%
Transaction Privilege, Severance & Use Taxes		
Net Collections	\$233,396,385	\$2,083,725,013
Percent Change *	12.2%	10.3%
Total Big Three Tax Types		
Net Collections	\$296,574,386	\$3,752,468,113
Percent Change *	25.8%	9.6%

() Decrease from same month last year.

* Percent change from same month last year.

Individual Income Tax

Individual Income Tax Receipts

March 2000	March 2000	March 1999	Change
Gross Collections	\$28,175,439	\$26,166,622	7.7%
Withholding	200,877,280	185,719,485	8.2%
Refunds	(162,810,295)	(192,743,839)	(15.5)%
Urban Rev Sharing	(31,475,916)	(28,359,221)	11.0%
Net Collections	\$34,766,507	(\$9,216,954)	N/A
Fiscal Year Total (99/00)	(98/99)		Change
Gross Collections	\$325,256,297	\$310,087,264	4.9%
Withholding	1,695,622,999	1,545,987,379	9.7%
Refunds	(362,101,804)	(359,534,926)	0.7%
Urban Rev Sharing	(283,283,242)	(255,232,992)	11.0%
Net Collections	1,375,494,250	\$1,241,306,726	10.8%

TAX CALENDAR

JULY 2000

Due Date		For Period Ending
4	State Holiday-4th of July	All State Offices Closed
17	Income Tax Returns:	3/31/00
	Form 120: Corporation	
	Form 140: Individual	
	Form 141: Fiduciary	
	Form 165: Partnership	
17	Form 120: Corporation with Automatic Extension	9/30/99
17	Form 120S: S Corporation	4/30/00
17	Form 99: Exempt Organization Annual Information Return	2/28/00
	Form 99T: Exempt Organization	2/28/00
17	Form 120ES: Estimated Tax Payment, Corporation	
	First Installment	3/31/01
	Second Installment	1/31/01
	Third Installment	10/31/00
	Fourth Installment	7/31/00
20	Form TPT-1: Transaction Privilege Tax: June Monthly Filers and Quarterly Filers	6/30/00
20	Bingo: Financial Reports	6/30/00
20	Luxury Tax: Various Forms	6/30/00
31	Form A1-QRT Withholding Tax	6/30/00
27	EFT Form TPT-1 and Payment: Transaction Privilege Tax: June Monthly Filers	6/30/00

Withholding Information:

If the average amount of Arizona income taxes withheld in the preceding four calendar quarters **exceeds** \$1,500 the employer must make its Arizona withholding payments to the Department of Revenue at the same time as the employer is required to make federal withholding deposits.

If the average amount of Arizona income taxes withheld in the preceding four calendar quarters **does not exceed** \$1,500 the employer must make its Arizona withholding payments to the department on a quarterly basis.

The Arizona Tax News is a monthly publication of the Arizona Department of Revenue. Information contained herein is of a general nature and is not designed to address complex issues in detail. Taxpayers requiring information concerning a specific tax matter should contact the appropriate office. This newsletter is available in alternative formats upon request by calling the telephone number shown below. Subscription information may be obtained from the Community Outreach & Education Section, 1600 W. Monroe, 8th floor, Phoenix, AZ 85007, or call Tony Manzo at (602) 542-3062 or toll free 1-(877) 863-0655.

Camp Verde Change in City Tax Code

On December 1, 1999, the Town Council of Camp Verde passed Ordinance No. 99-A145 & it was amended by Ordinance No. 99-A148. This increases the Town Privilege and Use Tax Rate from 1% to 2%. The Transaction Privilege tax will continue to be reported using Code CE. The Use tax will continue to be reported using Code CE2. This increase affects the following classes:

- Advertising, Amusements
- Construction Contracting
- Job Printing
- Manufactured buildings
- Timbering and other extraction
- Publishing
- Hotels
- Rental of real property
- Rental of tangible personal property
- Restaurants and bars

- Retail
- Telecommunications
- Transporting for hire
- Utility services.

The tax increase does not affect the Hotel classification or Additional Tax on Transient Lodging. The Hotel classification will continue to be 1% and shall be reported using Code CE4. The Additional tax on Transient Lodging will remain at 3% and continue to be reported using Code CE3. The ordinance makes a provision for contracts entered into prior to March 1, 2000 where there is no pass through provision. The tax rate for Pre-existing contracts is 1% and shall be reported using Code CE9.

Apache Junction Change in City Tax Code Effective: September 1, 2000

The Mayor and City Council of the City of Apache Junction passed Ordinance No. 1129. Ordinance 1129 increases the City of Apache Junction Transaction Privilege Tax from 2% to 2.2% for the following classifications:

- Advertising
- Amusements
- Construction contracting
- Feed at wholesale
- Job printing
- Manufactured buildings
- Timbering and other extraction
- Publishing
- Hotels
- Additional tax on transient lodging
- Rental of real property
- Rental of tangible personal property
- Restaurants/Bars
- Transporting for hire

For most classifications the tax shall continue to be

reported using Code AJ; however, the additional tax on Transient Lodging shall continue to be reported using Code AJ3.

The tax rate for Telecommunications and Utilities is increased from 3% to 3.2% and shall continue to be reported using Code AJ1. The tax rate for Retail sales shall continue to have a two-tier tax. The Retail rate of 2.2% shall apply to the first \$2,000.00 on the sale of a single item and reported using Code AJ. The tax rate of 1.2% shall apply for that portion of a single item over \$2,000.00 and shall be reported using Code AJ4.

Contracts that have been entered into prior September 1, 2000 and have no pass through provision, shall qualify for pre-existing contract status. Pre-existing contracts shall continue to be taxed at the rate of 2% and shall be reported using Code AJ9.

Wickenburg Change in City Tax Code Effective: June 1, 2000

On May 1, 2000 the Mayor and Town Council of the Town of Wickenburg passed Ordinance No. 860. Ordinance No. 860 establishes a 50% deduction for retail transactions with the Federal Government. The

ordinance also establishes a 100% deduction for retail sales made by a manufacturer, modifier, assembler, or repairer made directly to the Federal Government.

ARIZONA CORPORATE TAX RULING

CTR 00-1

"In order to identify business or non-business income, one must identify whether it is income arising from transactions and activities in the regular course of the taxpayer's trade or business."

ISSUE:

How does a taxpayer filing an Arizona corporate income tax return determine whether gain or loss on sale of stock is business or non-business income?

APPLICABLE LAW:

Title 43, Chapter 11, Article 4, consisting of A.R.S. §§ 43-1131 to 43-1150 and known as the Uniform Division of Income for Tax Purposes Act (UDITPA), sets forth the procedures for the apportionment and allocation of income.

DISCUSSION:

Income on an Arizona multistate return is classified as either business or non-business income. Business and non-business income are specifically defined in A.R.S. § 43-1131(1). Additionally, judicial decisions provide guidance, and should be consulted, as to the proper classification of income. See *Allied Signal v. New Jersey*, 112 S. Ct. 2251 (1992); *F.W. Woolworth Co. v. Taxation and Revenue Dept. of New Mexico*, 102 S. Ct. 3128 (1982); *Asarco Inc. v. Idaho State Tax Commissioner*, 102 S. Ct. 3103 (1982); *General Motors v. Ariz. Dept. of Revenue*, 189 Ariz. 86, 938 P.2d 481 (1996).

In order to identify business or non-business income, one must identify whether it is income arising from transactions and activities in the regular course of the taxpayer's trade or business.

If a transaction is within the regular course of a trade or business, the income from that transaction will be business income. If a transaction is not within the regular course of a trade or business, the income from that transaction will be non-business income. In apportioning and allocating income as business or non-business, respectively, the principles of UDITPA, as set forth in A.R.S. §§ 43-1131 to 43-1150 are applied.

A.R.S. § 43-1131(1) defines business income as "income arising from

transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations."

The courts have generally held that where gain or loss on sale of stock is from a subsidiary that is part of the taxpayer's unitary business, the gain or loss is considered to be business income. In cases other than unitary subsidiaries, the courts have considered whether the investment in stock served an operational or investment purpose. When the investment serves an operational purpose, the gain is considered business income. If the investment serves a passive investment purpose, the gain is considered non-business income.

Neither the Arizona statutes nor the court decisions have made a distinction between sales of stock in foreign or domestic companies. Although A.R.S. § 43-1132(A) precludes the allocation or apportionment of income of a foreign corporation to Arizona unless the foreign corporation has nexus within the state, there is no provision against apportionment or allocation of the domestic parent's income from the sale of its stock in a foreign corporation.

RULING:

Gain on the sale of stock of a unitary subsidiary is considered earned in the regular course of a trade or business of the taxpayer and is business income. Gain on the sale of stock of a non-unitary company is considered business income when the investment in stock serves an operational purpose. Gain on the sale of stock of a non-unitary company is considered non-business income when the investment in stock serves a passive investment purpose. These principles apply to gain or loss from sale of stock in foreign corporations as well as domestic corporations.

Telephone listings for the Tax Professional

ADMINISTRATIVE SERVICES DIVISION

Assistant Director (PHX)

Lynette States 602-542-4643

Estate Tax Manager (PHX)

Karen Coles 602-542-4643

Unclaimed Property (PHX)

Loretta Bowdish 602-364-0380

Elec. Funds Transfers & Special Taxes (PHX)

Tom Piner 602-542-4643

COMPLIANCE DIVISION

Assistant Director (PHX)

Richard Milanese 602-542-3432

Collections

Field Manager (PHX)

Frank Caruso 602-542-4908

Office Manager (PHX)

Nick Buta 602-542-3985

License Compliance Manager (EVO)

Kevin Helfrich 602-255-1156

Lien Supervisor (PHX)

Juanita Salinas 602-542-5673

Offers-In-Compromise (PHX)

Renee Jordan 602-542-5673

Bankruptcy (PHX)

John Reheman 602-542-3499

DATA MANAGEMENT DIVISION

Assistant Director (PHX)

Karen Mortimer 602-542-3141

Electronic Commerce/e-File (PHX)

Edmund Vaughan 602-542-4056

INFORMATION TECHNOLOGY DIVISION

Assistant Director (PHX)

Sharon Wilson 602-542-3141

PROPERTY TAX DIVISION

Problem Resolution Officer (PHX)

John Sylvester 602-542-3887

Hearing Office

Jonathan Hadley 602-542-4643

Assistant Director (PHX)

Steve Partridge 602-542-3529

Property Valuation Administrator (PHX)

Cheryl Murray-Leyba 602-542-3529

Assessment Stds. Administrator (PHX)

Ed Leyba 602-542-3529

TAXATION DIVISION

Assistant Director (PHX)

Stephen Shiffrin 602-542-4542

Individual Tax Administrator (TUC)

Tom Waters 520-628-6376

Deputy Administrator (PHX)

Tom McGinnis 602-542-3345 x 7651

Audit Supervisor (TUC)

Rodney George 520-628-6402

Audit Supervisor (TUC)

Karen Scholz 520-628-6321

Audit Supervisor (EVO)

Dan Foreman 602-255-1112 x 7020

Audit Supervisor (EVO)

Richard Castaneda 602-255-1112 x 7030

Audit Supervisor (PHX)

Scott Curry 602-542-3345 x 7563

Audit Supervisor (NVO)

Char Anthony 602-377-7500 x 4783

Appeals Manager (PHX)

Jim Walsh 602-542-3345 x 7521

Corporate Tax Administrator (PHX)

Donna McCuin 602-542-3345 x 4510

Deputy Administrator (PHX)

Kathy McQuitty 602-542-3345 x 4560

Deputy Administrator (NVO)

Tamara Harris 602-337-7500 x 4784

Deputy Administrator (TUC)

Lionel Celaya 520-628-6378

Audit Supervisor (PHX)

Janet Marquez 602-542-3345 x 4520

Appeals Manager (PHX)

Jane Doyle 602-542-3345 x 4532

*Telephone Listings
for the Tax
Professional have
been updated as of
June 30, 2000*

Arizona Department of Revenue Adopts General Disclosure /

The Department has adopted the Arizona Form 285 ("General Disclosure/Representation Authorization Form") which enables disclosure to an appointee with an option to grant the appointee various representational powers up to and including the Power of Attorney.

The Department has also adopted sub-forms of the Form 285 (Forms 285A, 285B, 285C, 285I) which are designed to meet the needs of taxpayers working with specific sections of the Department. Forms 285A and 285B are simplified versions of the Form 285 which only authorize the Department to release taxpayer's confidential information to an appointee of taxpayer. Thus, these forms

cannot grant any representational powers to the appointee.

- Form 285A is specially designed to meet the needs of taxpayers working with the Corporate Income Tax and Transaction Privilege and Use Tax Audit Sections.
- Form 285B is specially designed to meet the needs of business taxpayers working with the Taxpayer Support and Compliance Divisions.
- Form 285C is for the purpose of certifying that the person signing the return is a principal corporate officer of the corporation and thus is

authorized to receive confidential information.

- Form 285I is a simplified version of Form 285 that can authorize disclosure and grant representational powers to an appointee of a taxpayer. Form 285I is specifically designed for taxpayers working with the Individual Income Tax Audit Section.

For additional information call:

Phoenix, (602) 255-2060
Nationwide, Toll-free (800) 843-7196
Forms by Mail (602) 542-4260